

Remarks

The instant Office Action dated February 12, 2008 lists the following rejections: claims 1-2 stand rejected under 35 U.S.C. § 102(e) over the Tamai reference (U.S. Patent No. 7,116,009); and claims 3-6 stand rejected under 35 U.S.C. § 103(a) over the Tamai reference in view of the Hinman reference (U.S. Pub. No. 2002/0001213).

Applicant appreciates the courtesy extended in the brief telephone conversation of February 19, 2008, in which Examiner Deschere explained the basis for asserting that the priority claim was not perfected. Specifically, Examiner Deschere explained that the record was unclear on whether the copy of the PCT application provided with the underlying German application was an English translation of this German application, and to overcome this ambiguity, that Applicant needed to submit either an English translation, or a statement representing that the copy of the PCT application provided with the underlying German application was an English translation. Accordingly, and in response to Examiner Deschere's invitation to clarify, Applicant hereby states that the previously submitted International Application No. PCT/IB03/01424 is an English translation of the underlying German application DE 10217235.8. Applicant further submits that this statement has been authorized by the assignee of record. Accordingly, Applicant's priority claim to German application DE 10217235.8 has been perfected.

Applicant respectfully traverses the § 102(e) rejection of claims 1-2 and the § 103(a) rejection of claims 3-6 because the Tamai reference (U.S. Patent No. 7,116,009) is not prior art to the claimed invention. According to M.P.E.P. § 2136, "The prior art date of a reference under 35 U.S.C. 102(e) may be the international filing date if the international filing date was on or after November 29, 2000, the international application designated the United States, and the international application was published by the World Intellectual Property Organization (WIPO) under the Patent Cooperation Treaty (PCT) Article 21(2) in the English language." *See, also* M.P.E.P. § 706.02(f)(1). Applicant submits that Japanese Application No. JP2001239643 does not meet all of these requirements. Thus, the effective date of the '009 patent under § 102(e) is August 6, 2002 (*i.e.*, the U.S. filing date of the '009 patent), which is after Applicant's priority date of April 18, 2002 (via DE 10217235.8). Thus, the Tamai reference does not qualify as prior art under § 102(e). Accordingly, the § 102(e) rejection of claims 1-2 and the

§ 103(a) rejection of claims 3-6 are improper and Applicant requests that they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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